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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

No. [redacted] 9

BERNARD SHAPIRO, Welfare Commissioner of Connecticut,

Appellant,

—v.—

VIVIAN MARIE THOMPSON,

Appellee.

BRIEF FOR THE APPELLEE

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967

No. 813

BERNARD SHAPIRO, Welfare Commissioner of Connecticut,

Appellant,

—v.—

VIVIAN MARIE THOMPSON,

Appellee.

BRIEF FOR THE APPELLEE

Constitutional Provisions and Statutes Involved

In addition to the statute referred to in the Appellant's Brief (p. 5), this appeal also involves Section 1 of the Fourteenth Amendment, U. S. Const.; and Conn. Gen. Stats. §17-85 (1966).

Questions Presented

I. Does the denial of aid to families with dependent children (AFDC) to an indigent resident of Connecticut because she did not arrive in the State with a job offer or sufficient personal resources to support herself for three months constitute a deprivation of her rights in violation of the Fourteenth Amendment?

II. Does the discriminatory treatment of indigent residents who have resided in Connecticut for less than one year in the administration of Connecticut's AFDC program constitute a violation of the Fourteenth Amendment?

Summary Statement of the Case

The appellee is nineteen years old and the mother of two minor children. Prior to moving to Hartford, Connecticut, she resided with her son in Dorchester, Massachusetts, where she received public assistance from the Boston Welfare Department. Such assistance continued until September, 1966, when it was discontinued because the plaintiff no longer lived in Dorchester.

In late June, 1966, the appellee and her minor son moved to Hartford, and as stipulated to by the parties and found by the lower court, established residence (A. 39a, Stip. 2; A. 21a). She was encouraged in this move by her mother, who has continuously resided in Hartford for the past eight years (A. 39a, Stip. 11). Her mother promised to assist her financially to the best of her ability, which she did by providing the appellee and her son with living accommodations and food for approximately two and one-half months (A. 40a, Stip. 20). On August 26, 1966, because of the inability of her mother to continue supporting her, the appellee and her son moved to their own quarters in Hartford. At that time, both the appellee and her son were without any personal resources, and because the appellee was five months pregnant, she was unable to accept gainful employment or to enter a work training program (A. 41a, Stips. 27-28).

On September 7, 1966, the appellee applied to the Hartford Department of Public Welfare for assistance, and on September 8, 1966, she received a check for assistance. She was informed at that time, however, that since that agency could only help her for a temporary period of time not exceeding 60 days, she would have to apply for AFDC assistance from the Connecticut Welfare Department. At that time, the appellee refused financial assistance to return to Massachusetts for the reason that she intended to remain in Connecticut as a permanent resident (A. 42a, Stip. 31).

On September 7, 1966, the appellee did apply to the Connecticut Welfare Department for AFDC and on November 1, 1966, said application was denied because the appellee failed to meet the requirements of Section 17-2d of the Connecticut General Statutes, even though she qualified for such assistance under Section 17-85 of the Connecticut General Statutes on the basis of financial need (A. 42a, Stips. 36-7).

All public assistance to the appellee was terminated as of mid-January, 1967, and from January 25, 1967, to June 27, 1967, the appellee was able to support herself and her family only because of the contributions of a private charity, Catholic Family Services of Hartford (A. 43a, Stips. 45-6). These contributions consisted of a set amount of $31.60 a week, a sum *considerably less* than what the appellee would have received from the Connecticut Welfare Department as an AFDC recipient.

Contrary to what the State recites as a fact throughout its brief, the appellee did not begin receiving AFDC prior to either the date of the lower court's decision or the date of the judgment. The decision was rendered on June 19,

1967, judgment was entered on June 30, 1967, and the appellee began receiving AFDC on July 18, 1967.

ARGUMENT

Introduction

In order that the constitutional issues in this case may be properly viewed, we are setting forth in this introduction certain facts which provide the framework for these issues. We do not contend that these facts establish the invalidity of Connecticut's residence law; that law is unconstitutional because it conflicts with the fourteenth amendment in several ways, as our argument in the body of this brief will demonstrate. These facts simply shape the context in which the constitutional issues arise.

These facts are not intended to be novel or controversial. Rather they are or ought to be commonplace. Nevertheless, an appreciation of their truth is vital to the residence cases. The elementary but important propositions that we submit to the Court are that in the United States there is widespread and gnawing poverty amidst great wealth; that this poverty is a national problem knowing no state bounds; that it has been recognized as such by the federal government; and that the welfare system is an integral means of alleviating the worst consequences of national poverty.

That gnawing poverty exists throughout the rich United States can no longer be controverted. While the conditions in "the other America" have often been discussed, a large portion of the people have not begun to fathom the depths of the problem. As President Kennedy stated in November 1963: "This is a generally prosperous country but

there is a stream of poverty that runs across the United States which is not exposed to the lives of a good many of us and, therefore, we are relatively unaware of it except statistically."[1]

In one form or another, these statistics have been cited in numerous instances. Leon Keyserling, former chairman of the President's Council of Economic Advisers, has provided the following figures:

> "In 1963, the number of families living in poverty with incomes under $3,000 . . . was 8.9 million, or an estimated 29.2 million people. The number of unattached individuals living in poverty, with incomes under $1,500, was 5 million. The total number of people living in poverty thus came to 34.2 million, or between a fifth and sixth of a nation.
>
> "More tragically still, in 1963 the number of families with incomes under $2,000 was 5.1 million, or about 16.7 million people. And the number of unattached individuals with incomes under $1,000 was 3.2 million. Thus, almost 20 million people, or substantially more than a tenth of a nation, were at least 33⅓ percent below the income levels needed to lift them out of the poverty cellar.
>
> "And none of the data just cited conveys the full meaning of poverty. For the average income of all families 'under $3,000' in 1963 was only $1,778; the average for all families 'under $2,000' was only $1,220; the average for the 1.8 million families 'under $1,000' was only $630." Keyserling, *Progress or Poverty* 17, Conference on Economic Progress (1964).

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[1] Address before the Protestant Council of the City of New York, November 8, 1963. The text is in Congressional Quarterly, November 15, 1963, p. 2003.

As President Kennedy indicated, statistics may be useful but they do not convey the essence of the plight of poverty. Testimony before the United States Senate has recently focused the nation's attention on the tragic consequences of these conditions. It has also demonstrated that poverty is not the monopoly of any one region of this country.[2] The national character of the problem was summarized in a 1962 report on economic progress as follows:

> "In the West, slightly more than one-fifth of the multiple person families lived in poverty in 1960; in the Northeast, somewhat less than one-fourth; in the North Central region, about three families in every ten; and in the South, close to five families in every ten . . . Among unattached individuals in 1960, four-and-a-half in every ten lived in poverty in the West; very close to half in the Northeast; more than half in the North Central region; and about two-thirds in the South." *Poverty and Deprivation in the U. S.: The Plight of Two-Fifths of a Nation,* Conference on Economic Progress 40 (1962).

In the Southeast, poor people—especially black citizens of the rural South—often live in conditions of crippling "hunger, malnutrition, or starvation." Southern Regional Council, *Hungry Children* (1967). Editorial: *Starvation in Mississippi,* New York Times, March 26, 1968, p. 44, col.

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[2] This fact is further demonstrated by the testimony given before the lower court by the Director of the Hartford Department of Public Welfare. Of the 334 persons subject to the statute in issue in this case who applied for public assistance from the Hartford Department of Public Welfare during the fiscal year April 1, 1966, to March 31, 1967, the breakdown on their places of origin is as follows: Puerto Rico (123); New England States (50); New York, New Jersey and Pennsylvania (70); Southern States (58); Midwestern and Western States (22). Transcript, p. 13.

I. Unemployed inhabitants of Appalachia have become exiled from the prosperity of America and have involuntarily become "a society on the dole." Stern, *The Shame of a Nation,* 23 (1965). Migrant laborers, in all regions of the country, daily face the unpredictable problems caused by unemployment and underemployment. Harrington, *The Other America,* 57-9 (1963). And residents of urban areas —especially in the ghettos of the "inner cities"—are plagued with so many problems, that civil disorders are becoming common phenomena. See generally, *Report of the National Advisory Comm'n on Civil Disorders* (1968).

The Executive Branch and the Congress have appreciated the necessity for mutual cooperation and federal action in attacking the problems, not only which cause poverty but also which stem from its widespread presence. Together they have designed a coordinated attack on some of the manifestations of proverty—poor food,[3] housing,[4] education,[5] medical attention,[6] and income opportunities.[7] Fur-

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[3] Food Stamp Act of 1964, 7 U.S.C. §§ 2011-25 (Supp. 1967); Commodity Distribution Program, 7 U.S.C. § 1431 (Supp. 1967), *amending* 7 U.S.C. § 1431 (1964).

[4] Housing and Urban Dev. Act of 1965, 42 U.S.C. §§ 1401 et seq. [Public Housing Program, Low-Rent Housing], 1701 [Rent Supplements], §§ 1450 et seq. [Slum Clearance and Urban Renewal] (Supp. 1967); Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. §§ 3301-13 (Supp. 1967).

[5] Title I of the Elementary and Secondary Act of 1965, 20 U.S.C. §§ 241a et seq. (Supp. Feb. 1968); *amending* 20 U.S.C. § 241a (Supp. 1967); Vocational Education Act of 1963, 20 U.S.C. §§ 15aa, 15bb, 15aaa, 35-35 N (Supp. 1967).

[6] Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq. (Supp. 1967); Child Health Act of 1967, 42 U.S.C. §§ 701 et seq. (Supp. Feb. 1968).

[7] Economic Opportunity Act, 42 U.S.C. §§ 2921-25 (Supp. 1967), *amending* 42 U.S.C. §§ 2921-25 (1964); Manpower Development and Training Act, 42 U.S.C. §§ 2571 et seq. (Supp. 1967) [Manpower Development and Training Program].

thermore, the Office of Economic Opportunity was created in order to coordinate the various poverty programs and to bring them directly to the poor.[8] In short, the federal government has been fully aware of the need for common and cooperative efforts in this area of great national concern.

One of the recognized effects of widespread poverty has been the movement of poor people to new areas for the purpose of establishing a new life. Countless studies have sketched in detail the movement of poor people leaving their old homes in desperation and arriving at their new residences with hope. See e.g., *Report of the National Advisory Comm'n on Civil Disorders, supra* 235-250. This movement is caused by several factors. Each year, countless persons are displaced from their jobs by the ever increasing mechanization of the economy and migrate to new areas in the hope of finding employment. Also, large numbers of poor persons move for the same complex personal reasons that all other persons do.

If it is true that great numbers of poor people are constantly making new homes in order to make meaningful changes in their lives, it is also true that these hopes are often dashed and transformed into bitter frustration. The recent migrant is often unaware of the techniques and demands of living in a new environment; he often lacks the

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[8] Economic Opportunity Act, 42 U.S.C. §§ 2737-49 (Supp. Feb. 1968) [Work and Training for Youth and Adults]; Manpower Development and Training Act, 42 U.S.C. §§ 2571-74, 2581-83 (Supp. 1967), *amending* 42 U.S.C. §§ 2571, 2582-83, 2585 (1964) [Youth Opportunity Centers]; Economic Opportunity Act, 42 U.S.C. §§ 2711-29 (Supp. Feb. 1968), *amending* 42 U.S.C. §§ 2711-20 (1964) [Job Corps]; Economic Opportunity Act, 42 U.S.C. §§ 2781, 2790-97 (Supp. Feb. 1968), *amending* 42 U.S.C. §§ 2781-91 (1964) [Head Start].

educational prerequisites to learn quickly in his new surroundings; and he usually does not have the political and organizational support to provide help.

In these circumstances, in order to survive with a modicum of decency, the newcomer is often soon forced to turn to public welfare for needed assistance. But, as numerous commentators have indicated, the request for welfare assistance is often either denied or approved at a high price to the applicant.[9] Despite a long religious tradition of hospitable treatment for the newcomer ("... and if a stranger sojourn with thee in your land, ye shall not vex him. But the stranger that dwelleth with you shall be unto you as one born among you and thou shalt love him as thyself for ye were strangers in the land of Egypt." Leviticus, 19:33-34), most states have added misery to the plight of the poor by enacting one year residence requirements for welfare recipients. Two perceptive and experienced observers have put it well when they said that these one year requirements "impose a social injustice on individuals who move—however socially desirable their motivation—and endanger the whole concept of a federally-aided, state-administered public welfare responsibility." Wickenden and Bell, *Public Welfare: Time for a Change* 27 (1961).

[9] Harvith, *The Constitutionality of Residence Tests for General and Categorical Assistance Program*, 54 Calif. L. Rev. 567, 617-618 (1966); Report to the Moreland Commission on Welfare Findings of the Study of Public Assistance Program and Operations of the State of New York 78 (Nov. 1962) (Greenleigh Assocs., Inc.).

I.

Section 17-2d Is Invalid Because It Infringes the Right to Travel in Violation of the Privileges and Immunities Clause of the Fourteenth Amendment.

It is now recognized without dissent that the right to travel from one State to another is a fundamental right under the Constitution. The Court in its most recent opinion on this issue defined it as "a basic right under the Constitution." *United States* v. *Guest*, 383 U.S. 745, 758 (1966). Justice Harlan in a separate opinion in the same case, quoting from *Corfield* v. *Coryell*, 4 Wash. C.C. 371 (1925), referred to it as one of "those privileges and immunities which are, in their nature, *fundamental*." 383 U.S. at 764. The members of the Court have differed on occasion as to the source of this right under the Constitution and although the Court in *Guest* was unanimous that the right exists, these differences were once again left unresolved. 383 U.S. at 759. Despite the recognition in *Guest* that "differences in emphasis" do exist, the Court's opinion supports the conclusion that regardless of what other sources of protection this right has under the Constitution, it is protected by the privileges and immunities clause. The thrust of Justice Stewart's opinion, that "the . . . right to travel from one State to another . . . occupies a position fundamental to the concept of our Federal Union," 383 U.S. at 757, suggests that the right does attach as the result of national citizenship.[10] Furthermore, the earlier opin-

[10] It has been said of the right to travel that it is "an aspect of personal liberty guaranteed by the . . . Fourteenth Amendment [which is] irreparably appertinent to national citizenship." tenBroek, *The Constitution and the Right of Free Movement* III-C12 (National Travelers Aid Ass'n 1955).

ions of the Court which Justice Stewart relied on as authority for the existence of the right to travel all described the right to travel as a right of national citizenship protected by the privileges and immunities clause of the fourteenth amendment. 383 U.S. at 758.

Section 17-2d unconstitutionally interferes with the right of indigent persons to travel to Connecticut. Indeed, Connecticut does not dispute that interference is an inevitable result of the statute. Any person contemplating travel to Connecticut must reckon with the fact that if he is indigent or becomes indigent soon after arrival, he will be ineligible for AFDC benefits he would have received had he not traveled or had he traveled to a State without a residence law. Furthermore, it is certain from the record that persons do leave Connecticut immediately after arriving because of the effect of Section 17-2d, *Transcript*, pp. 18-19, 48, and that in some instances, economic pressure is placed upon persons to leave the State.[11]

A prior effort by a State to interfere with the movement of indigent persons across its borders was found to be constitutionally repugnant. In *Edwards* v. *California*, 314 U.S.

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[11] Although the Connecticut Welfare Department offers temporary assistance to persons ineligible for AFDC for a maximum of 60 days, it discontinues such assistance *immediately* if the person refuses voluntary return to the place of last residence. The Connecticut Welfare Manual provides that "if after a reasonable period of counselling, the family is unable to develop plans for self-support, arrangements for return [to be] undertaken immediately and . . . completed within sixty days. If the family does not wish to return, assistance will be discontinued *even though* the sixty day maximum period that temporary assistance may be given has not elapsed." Connecticut Welfare Manual, Vol. I, Ch. II, § 219.3; Appendix to Plaintiff's Pretrial Memorandum in District Court, p. 5.

160, 171 (1941), the Court struck down a law making it a misdemeanor to bring "into the State any indigent person who is not a resident of the State, knowing him to be an indigent person. . . ." The Court, although divided on the constitutional theory to be applied, unanimously concluded that the statute was invalid because it restricted the freedom of indigents to move from other States into California.

Edwards v. *California* should control the decision here. As in this case, the State legislation that impeded freedom of travel in *Edwards* was aimed at indigent persons seeking a better life by moving to a new community for the purpose of establishing residence therein. In addition, similar to the position which Connecticut takes in this case, California attempted to justify its statute by drawing attention to the staggering "problems of health, morals and especially finance," caused by a "huge influx of migrants. . . ."[12] 314 U.S. at 173. Just as the circumstances in *Edwards* parallel those here, so also is the philosophy underlying the opinions in that case instructive regarding the invalidity of this Connecticut statute. This philosophy is that the individual states cannot, under our constitutional scheme, isolate themselves from the impact of problems common to all. If the states are to be free to prevent persons without funds from entering their jurisdiction, the nation as a whole no longer will be an operative unit in

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[12] Statistics kept by the State Welfare Department for the twelve month period from Oct. 1, 1961 to Oct. 1, 1962, reflect that the migration of indigents to Connecticut is not a "staggering" problem. Out of a total number of 19,596 applications for public assistance during that period only 379 or 1.9% had resided in the State for less than one year. Transcript, p. 53.

coping with economic and social concerns that plainly know no borders. It will achieve what Justice Frankfurter warned against in *New York* v. *O'Neill*, 359 U.S. 1, 8 (1959), the "Balkanization of the Nation." It will, moreover, in the words of Justice Douglas,

> ". . . introduce a caste system utterly incompatible with the spirit of our system of government. It would permit those who were stigmatized by a State as indigents, paupers, or vagabonds to be relegated to an inferior class of citizenship. It would prevent a citizen because he was poor from seeking new horizons in other States. It might thus withhold from large segments of our people that mobility which is basic to any guarantee of freedom of opportunity." *Edwards* v. *California, supra*, 314 U.S. at 181.

The appellant would distinguish *Edwards* from the instant case on the ground that a criminal statute was in issue in that case. *Brief for Appellant*, pp. 13-16. The argument continues, apparently, that because of this fact, indigents were stopped from moving into California and, therefore, there was a prohibition of the exercise of the right to travel which is not similarly caused by Section 17-2d because it does not prescribe criminal sanctions. An initial flaw in this argument, as recognized by the court below, is that the California statute "penalized the sponsor of the indigent, not the indigent himself." *Thompson* v. *Shapiro*, 270 F. Supp. 331, 336 (1967); no sanctions were applied directly against the indigent.

Further support for the district court's holding that Section 17-2d "impedes" the right to travel because it

"discourages" [13] indigent persons from coming to Connecticut, is found in *United States* v. *Guest, supra.* The district court interpreted the use of the words "impede" and "oppress" in Justice Stewart's opinion for the Court[14] to mean that the right to travel is abridged by conduct amounting to less than an absolute prohibition on the exercise of the right. This interpretation is confirmed by Justice Harlan's concurring opinion in *Guest,* in which he states that the right to travel is "free from unreasonable *governmental* interference." 383 U.S. at 763.

The interference with the right to travel caused by Section 17-2d is further highlighted by reference to the "express purpose" for which the statute was passed. See *Edwards* v. *California, supra* at 174. Based on the characterization placed on the statute by the appellant, the district court held that the purpose of Section 17-2d is "to protect [the State's] fisc by discouraging entry of those who come needing relief." [15] 270 F. Supp. at 336-37. The

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[13] The right to travel has been analogized in the Passport Cases, *Kent* v. *Dulles,* 357 U.S. 116, 125-26 (1958), *Aptheker* v. *Secretary of State,* 378 U.S. 500, 505-06 (1964), to those rights protected by the first amendment, and it is in this context that Section 17-2d can be said to be unconstitutional because it "has a chilling effect on the right to travel." 270 F. Supp. at 336. See *Dombrowski* v. *Pfister,* 380 U.S. 479, 487 (1965).

[14] "[I]f the predominant purpose of the conspiracy is to *impede* or prevent the exercise of the right of interstate travel, or to *oppress* a person because of his exercise of that right, then, . . . the conspiracy becomes a proper object of the federal law under which the indictment in this case was brought." 383 U.S. at 760 (Emphasis added).

[15] We maintain that contrary to what California and Iowa contend in their amicus briefs filed in this case, the only purpose which an AFDC residence law serves is to deter indigents from taking up residence in the State. Statistics show that the percentage of applicants for AFDC who have resided in a state for less than

legislative history of the statute leaves no room for doubt that this was in fact the objective of the statute. The pertinent part of that history is contained in the statement on the floor of the Connecticut General Assembly by Representative Morris Cohen, the draftsman of Section 17-2d as he moved for its adoption. After acknowledging that few people come to Connecticut specifically to get public assistance and that most persons who come are from depressed areas and desire to better themselves, he said:

> "If we pass this [one year residency] Bill, the word could get around that we are not an easy state . . . . As responsible legislators we cannot . . . continue to allow unlimited migration into the State, on the basis of offering instant money and permanent income to all who can make their way [here], regardless of their ability to contribute to the economy." Connecticut General Assembly 1965, *House of Representatives Proceedings*, Vol. II, Part 7, pp. 194-95 (Connecticut State Library); *Appendix to Plaintiff's Pretrial Memorandum in District Court*, pp. 78-80.

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one year is negligible (less than 2% in Connecticut for 1961-1962, *see* footnote 12 *supra;* approximately 2% in N. Y. for 1955, *see* Residence Laws: Road Blocks to Human Welfare 20 (National Travelers Aid Ass'n., 1956)) and that the cost of administering the law may exceed the dollar amount saved by withholding benefits. One Manner of Law: A Handbook on Residence Requirements in Public Assistance 6 (National Travelers Aid Ass'n, 1961); *Hearings on HR10032 Before the House Comm. on Ways and Means*, 87th Cong., 2nd Sess. 88 (1962). Furthermore, as to other groups of new beneficiaries, such as children born to parents already on AFDC, California and Iowa as well as all other states having residence laws, provide for their immediate eligibility even though the drain on the budget is as *unpredictable* as in the case of indigent newcomers.

The deterrent purpose of Section 17-2d must be viewed in the light of the history of earlier Connecticut legislation dealing with newly arrived indigents. A statute in force until 1963 provided for the physical removal of welfare applicants from Connecticut to another state to which they belonged after a finding by the Commissioner of Welfare and a court warrant ordering an officer to transport such person. *Conn. Gen. Stat.*, § 17-273a (1961). The Welfare Commissioner sought a determination of the constitutionality of this statute, but the Connecticut Supreme Court refused to rule on the issue. *State* v. *Doe*, 149 Conn. 216, 231, 178 A. 2d 271, 278 (1962). Although the law was subsequently repealed, 1963 Public Act 501, § 4, its purposes—and particularly its draconian remedy—illuminate the similar objectives of Section 17-2d. See 37 Conn. B. J. 504 (1963).

It was made explicit in *Edwards* v. *California* that a state statute which is *intended* to deny indigents the right to travel is patently invalid.[16] Relying on Justice Cardozo's

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[16] The issues raised here might differ if the challenged State statute had been enacted to accomplish some purpose other than impairment of the right to travel. For example, where residence laws are adopted, not to discourage travel, but to assure sufficient local familiarity to qualify for State regulated occupations like the practice of law, the issue becomes whether the legitimate State purpose is lawful notwithstanding the possible deterrence to travel. Compare *Dent* v. *W. Va.*, 129 U.S. 114 (1889) with *Mercer* v. *Hemmings*, 194 So. 2d 579, 584-86 (Fla. 1966). But this Connecticut statute has no other purpose except to deter travel (saving State funds is simply the reason why Connecticut has enacted a statute whose purpose is to deter travel). Furthermore, no other State privilege conditioned by a residence law is as integrally related to the act of traveling to a new State for the purpose of becoming a resident, as the availability of AFDC is to a person who is poor. See *Green* v. *Dept. of Public Welfare*, 270 F. Supp. 173, 178 (D. Del. 1967).

statement for a unanimous Court in *Baldwin* v. *Seelig*, 294 U.S. 511, 523 (1935); that the Constitution "was framed upon the theory that the peoples of the several states must sink or swim together, and that in the long run prosperity and salvation are in union and not division," the Court concluded that no State can "isolate itself from difficulties common to all" States by denying entry to indigent persons. 314 U.S. at 173. It then went on to say regarding the California statute:

> "It is difficult to conceive of a statute more squarely in conflict with this theory than the Section challenged here. Its *express purpose* and inevitable effect is to prohibit the transportation of indigent persons across the California border." 314 U.S. at 174 (Emphasis added).

Connecticut argues, however, that regardless of the obvious purpose and effect of Section 17-2d, it is a valid statute because it represents a legitimate determination by Connecticut as to how it will spend its tax revenues. *Brief for Appellant*, pp. 16-17. The contention is made that the federal courts cannot tell the States how they shall spend their monies. While this argument has some validity on the issue of *whether* a State will spend its money, it contains the entirely unsupportable implication that there are no constitutional limitations on the way that a State can administer a service or benefit which it gratuitously makes available to its citizens. While we do not argue that Connecticut has a constitutional obligation to spend its monies to provide AFDC to its needy residents, we maintain that it is well settled that where it does choose to spend its monies in this way, it must do so in compli-

ance with the fourteenth amendment.[17] See *Griffin* v. *Illinois*, 351 U.S. 12, 18 (1956).. Furthermore, this same argument, that the statute is justified because of the demands which indigent newcomers would otherwise make on the treasury was made by California and rejected by the Court in *Edwards*.[18] This same conclusion has recently been reiterated by Judge Seitz, speaking for a unanimous three-judge district court that struck down the Delaware one year residence requirement for AFDC:

> "[The principal purpose of the Delaware statute] as suggested by defendant's counsel, is the State's desire to discourage needy persons from entering Delaware and thereby to protect the public purse . . . . Edwards v. People of State of California, 314 U.S. 160, 62 S.Ct. 164, 86 L.Ed. 119 (1941), although in-

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[17] The district court in effect answered Connecticut's contention that the appellee's claim for relief is really based on the proposition that she has a constitutionally protected right to AFDC, *Brief for Appellant*, p. 8, by saying that "the State may provide assistance in a limited form with restrictions, so long as the restrictions are not arbitrary; but, in any case where the government confers advantages on some, it must justify its denial to others by reference to a constitutionally recognized reason," 270 F. Supp. at 338.

[18] California's position was that:

> "Their coming here has alarmingly increased our taxes and the cost of welfare outlays . . . . Naturally, when these people can live on relief in California better than they can by working in Mississippi, Arkansas, Texas or Oklahoma, they will continue to come to this State." 314 U.S. at 168.

The Court responded to this contention as follows:

> "The State asserts that the huge influx of migrants into California in recent years has resulted in problems of . . . finance, the proportions of which are staggering. It is not for us to say that this is not true . . . . But this does not mean that there are no boundaries to the permissible area of State legislative activity. There are." 314 U.S. at 173.

volving a different form of state action and different constitutional provisions, stamps such a ground as a constitutionally impermissible basis for separate state treatment . . . . The protection of the public purse, no matter how worthy in the abstract, is not a permissible basis for differentiating between persons who otherwise possess the same status in their relationship to the State of Delaware." *Green* v. *Dept. of Public Welfare, supra,* 270 F. Supp. at 177.

II.

Section 17-2d Violates the Fourteenth Amendment Because It Abridges the Right to Establish Residence in Connecticut.

The holding by the lower court that Section 17-2d is constitutionally invalid because it interferes with the "right to establish residence in Connecticut," 270 F. Supp. at 336, reflects an application of the opinions of this Court going back to 1825. In that year, Justice Washington, writing for the court in *Corfield* v. *Coryell, supra,* 4 Wash. C.C. at 380-81, made the classic and oft-quoted statement that "it is the right of a citizen of one state to pass through or to *reside* in any other state, for purposes of trade, agriculture, professional pursuits or otherwise . . . . " (Emphasis added.)

Section 17-2d abridges the right of persons subject to the act to establish residence in Connecticut because it *discriminatorily* withholds from such persons a benefit which is essential to minimal residence. See generally, Reich, *Individual Rights and Social Welfare: The Emerging Legal Issues,* 74 Yale L. J. 1245, 1253 (1965). AFDC

is denied these persons even though they are poor enough to qualify for such assistance, and like the appellee, are bona fide residents of the State.[19] As to those persons who choose to remain in Connecticut, it in effect makes the right to enjoy residence meaningless because it forces on them a life devoid of any humane quality[20] solely because of their having chosen Connecticut as a place to reside. We wish to make it clear that this claimed constitutional violation is not the failure of the State to "equalize economic conditions" for all its citizens, *Griffin* v. *Illinois, supra,* U.S. at 23 (Frankfurter, J., concurring), but rather the discriminatory withholding of a State offered benefit which is essential to meaningful residence. As stated by the lower court, "denying to the plaintiff [this] gratuitous benefit . . . impedes the exercise of [the right to establish residence]. See *Sher-*

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[19] Pursuant to stipulation No. 2 (A. 39a), the appellant admits that the appellee is a bona fide resident of Connecticut. She is also a resident within the definition of that term as contained in the State Welfare Manual: "Residence within the state shall mean that the applicant is living in an established place of abode and the plan is to remain." Conn. Welfare Manual, Vol. 1, Ch. II, § 220; Appendix to Plaintiff's Pre-Trial Memorandum in District Court, p. 8. Furthermore, Connecticut is her legal domicile as that term has been defined by the Connecticut Supreme Court: "[A person's domicile is that place] in which he has voluntarily fixed his habitation . . . with the present intention of making it his home, unless or until something which is uncertain or unexpected shall happen to induce him to adopt some other permanent home." *Mills* v. *Mills,* 119 Conn. 612, 617, 179 Atl. 5, 7 (1935).

[20] One noted social commentator has described the qualitative effect which the durational residence law has on the indigent resident subject to it in the following terms: "These persons, are, in practical fact second-class citizens to the effect that measures of common protection, established as socially necessary for others living in the community, are not available to them." Wickenden, *The Social Cost of Residence Laws,* Social Casework, Vol. 37 (1956).

bert v. *Verner*, 374 U.S. 398, 405-06, 83 S.Ct. 1790, 10 L.Ed. 2d 965 (1963)." 270 F. Supp. at 336. See 42 Conn. B. J. 114, 119 (1968).

The denial of AFDC to persons subject to Section 17-2d forces them to live under the most deprived conditions until the year is up. The effect which a year without AFDC can have on a person otherwise without resources is intolerable. As stated by the district court in *Harrell* v. *Washington*, Civil No. 1497-67, p. 12 (D.D.C. 1967), *appeal docketed*, No. 1134, U.S. March 4, 1968, "the spread over a year's time of the evils which public assistance seeks to combat may mean that aid, when it becomes available, will be too late . . . ." When translated into human statistics, the impact becomes even more apparent. Three out of every four AFDC recipients are children; out of the total 4.8 million persons receiving AFDC, less than 70,000 are fathers who are not physically or mentally incapacitated. *Report of National Advisory Comm'n on Civil Disorders*, p. 457 (1968). It is apparent from these statistics that as to indigent persons who turn to AFDC for help, residence, in the most basic sense of the enjoyment of the right to reside in a State, is at stake.

The right asserted in this section of the brief is explicitly protected by that portion of Section 1 of the Fourteenth Amendment which reads, "all persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens . . . of the state wherein they reside . . . ." The meaning of this section was discussed at length by Justice Miller writing for the court in the *Slaughter House Cases*, 16 Wall. 36, 80 (1872) and interpreted to mean "that a citizen of the United States can, of his own volition become a citizen of any State of the Union by a *bona fide*

residence therein, *with the same rights as other citizens of that State.*" (Emphasis added.) This same meaning was attributed to Section 1 by Justice Jackson in his concurring opinion in *Edwards,* but with the added clarification that this right is an attribute of national citizenship.

> "[I]t is a privilege of citizenship of the United States, protected from state abridgement, to enter any state of the Union, either for temporary sojourn or for the establishment of permanent residence therein and for gaining resultant citizenship thereof. If national citizenship means less than this, it means nothing.
>
> "State citizenship . . . results only from residence and is gained or lost therewith. That choice of residence was subject to local approval is contrary to the inescapable implications of the westward movement of our civilization." 314 U.S. at 183.

This Court has recognized that the denial of rights by a State to one class of persons which are made available to other persons similarly situated, constitutes an interference with the constitutionally protected right to enjoy residence in a State. In *Truax* v. *Raich,* 239 U.S. 33 (1915), an Arizona statute which limited the number of jobs which could be made available to alien residents of the State was declared unconstitutional. Justice Hughes, writing for the court, found that the effect of the statute was to interfere with the enjoyment of residence:

> "The assertion of an authority to deny to aliens the opportunity of earning a livelihood when lawfully admitted to the State would be tantamount to the assertion of the right to deny them entrance and *abode,*

for in ordinary cases they cannot live where they cannot work. And, if such a policy were permissible, the practical result would be that those lawfully admitted to the country . . . would be segregated in such of the States as chose to offer hospitality." 239 U.S. at 42 (Emphasis added).

In *Oyama* v. *California,* 332 U.S. 633, 640 (1948), the court held that California's Alien Land Law, which operated to escheat two parcels of land purchased by an alien in the name of his son, an American citizen and California resident, was unconstitutional because it deprived the son of "the equal protection of [the] laws and *of his privileges as an American citizen.*" (Emphasis added) The majority opinion found the law objectionable because it relegated one class of residents to an inferior quality of citizenship. This right was confirmed again in *Takahashi* v. *Fish Comm'n,* 334 U.S. 410, 420 (1948) where the court referred to the right of "all persons lawfully in this country [to] *abide* 'in any state' on an equality of legal privileges with all citizens under *non-discriminatory laws.*" (Emphasis added).

The application of these principles to the one year residence requirement should be obvious. Individuals deprived of AFDC are being denied more than the employment at issue in the *Truax* and *Takahashi* cases, and more than the land in *Oyama.* They are being denied the minimal necessities of life that, apart from the effect of the residence requirement, they would receive as residents of the State.

III.

Section 17-2d Violates the Equal Protection Clause Because It Discriminates Against Persons on the Basis of Their Wealth.

Section 17-2d does not bar all persons from receiving AFDC within one year from the date of arrival in Connecticut. Instead, it bars only those who come into the State "without visible means of support for the immediate future." As characterized by the district court, it draws a "classification . . . based . . . solely on indigency." 270 F. Supp. at 337. The "immediate future" is interpreted by the Connecticut Welfare Manual to mean a period of three months, and "without visible means of support" is interpreted to include:

> "1. Persons or families who arrive in Connecticut without specific employment.
>
> "2. Those arriving without regular income or resources sufficient to enable the family to be self-supporting in accordance with Standards of Public Assistance."[21] *Connecticut Welfare Manual*, Vol. 1, Ch.

[21] The regulations further provide:

(1) If the application for assistance is filed within one year after arrival in Connecticut, the applicant must establish that he was self-supporting upon arrival and for the succeeding three months thereafter; or

(2) If the application for assistance is filed within one year after arrival in Connecticut, the applicant must clearly establish that he came to Connecticut with a bona fide job offer; or

(3) If the application for assistance is filed within one year after arrival in Connecticut, the applicant must establish that he sought employment and had sufficient resources to sustain his family for the period during which a person with his skill would normally be without employment while actively seeking work. Personal re-

II, § 219.1; Appendix to Plaintiff's Pre-Trial Memorandum in District Court, p. 3.

In addition, a Note to section 219.1 of the Welfare Manual provides that "Support from relatives or friends, or from a public, private, or voluntary agency for three months after arrival will not satisfy the requirements of the law, which relates to self-support rather than to dependency."

The net effect of these provisions is to discriminate against persons arriving in Connecticut without resources as against those who arrive with resources. Persons in the latter category, if they develop the need for AFDC after three months, are eligible to receive such aid even if they have squandered or otherwise dissipated their initial resources. But persons who arrive without resources are prohibited from receiving AFDC although they are otherwise eligible for assistance. In this connection, it is undeniable that a job offer is a "resource."

Making reference to Connecticut's work training program administered under the Economic Opportunity Act, 42 U.S.C. § 2921-2925 (1964) as amended, 42 U.S.C. § 2921-2925 (1968), Connecticut argues that the appellee would have been eligible for public assistance despite Section 17-2d if she had evidenced a desire to be trained for employment.[22] The State goes on that her "claim of unavaila-

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sources to sustain his family for a period of three months is considered sufficient. Those who come to Connecticut for seasonal employment such as work in tobacco or short term farming are not deemed to have moved with the intent of establishing residence in Connecticut.

Connecticut Welfare Manual, Vol. 1, Ch. II, § 219.2; Appendix to Plaintiff's Pre-Trial Memorandum in District Court, p. 4.

[22] The State's contention that persons who have resided in the State for longer than one year are given AFDC because they

bility to work because of the age of her children . . . failed to satisfy the appellant." *Brief for Appellant*, p. 5. This is simply not so. The record establishes that the appellee was not "employable or trainable at the time" that she applied for assistance because she was pregnant and had to take care of her minor son. (A. 41a, Stip. 27)[23] Moreover, the "notice of action" forwarded by the State Welfare Department to the appellee advising her that her application for AFDC was denied stated as the reason, her failure to satisfy the requirements of Section 17-2d. The record further establishes that the appellee does have the desire to be trained for employment. (A. 44a, Stip. 48).

By discriminating in the way that it does solely on the basis of individual wealth, the Connecticut statute is plainly invalid under a familiar line of decisions of this Court. Justice Robert Jackson, concurring in *Edwards* v. *California, supra*, 314 U.S. at 184-85, foreshadowed these decisions by asserting that "the mere state of being without funds is a neutral fact—constitutionally an irrelevance, like race, creed, or color." Subsequently, starting in 1956, this principle has been applied to strike down a variety

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"have contributed to the economy or demonstrated a willingness to do so," Brief for Appellant, p. 18, belies the language of Section 17-85, which makes financial need the only prerequisite for eligibility for AFDC. Furthermore, the unsupportable nature of the State's argument, that eligibility for AFDC is based on either employability or willingness to be trained for employment, is evidenced by the fact that when the appellee's one year waiting period had expired, she was immediately eligible for assistance without conditions attached.

[23] The impracticality of placing mothers with pre-school age children in a job or a work training program was highlighted by the Commissioner of Welfare in his testimony before the lower court. Transcript, pp. 39, 45-6, 64.

of State laws that were found to have an impermissible unequal impact on the poor.

In *Griffin* v. *Illinois, supra,* 351 U.S. 12, it was held that Illinois was required to provide indigents with trial transcripts because State law required such a transcript for all appellate review and furnished them to persons who paid a fee. Mr. Justice Black, speaking for four Justices, stated that "there can be no equal justice where the kind of trial a man gets depends on the amount of money he has." 351 U.S. at 19. Later cases applied the *Griffin* rationale to require states to waive filing fees whenever the fees would deny poor persons a hearing available to those able to pay. E.g., *Burns* v. *Ohio,* 360 U.S. 525 (1959) (criminal appeals); *Smith* v. *Bennett,* 365 U.S. 708 (1961) (habeas corpus). The doctrine has also been applied to require the States to provide indigents with certain services, such as legal representation, which those with funds can afford privately. *Douglas* v. *California,* 372 U.S. 353 (1963). In addition, the Court has declared the poll tax unconstitutional because it excluded from voting "those unable to pay a fee." *Harper* v. *Virginia Bd. of Elections,* 383 U.S. 663, 668 (1966).

The instant case presents an even clearer occasion for the application of the equal protection clause than any of the above decisions. In these earlier cases State legislation was invalidated as embodying an "invidious discrimination" because the Court concluded that the *effect* of the statutes was to deny poor persons certain privileges that wealthier persons could afford. In the case at bar, however, there is no need to speculate about the precise impact of the State law on persons without means or about whether the impact is of such a nature as to render it

unconstitutional. These questions often raise difficult theoretical and practical problems. See Note, *Discriminations Against the Poor and the Fourteenth Amendment*, 81 Harv. L. Rev. 435 (1967). Here these questions can be put to one side because the State is *explicitly* discriminating against persons without economic resources. Accordingly, the legislation is invalid under the most fundamental principles of equal protection. As stated by Justice Harlan, dissenting in *Douglas* v. *California, supra*, 372 U.S. at 361:

> "The States, of course, are prohibited by the Equal Protection Clause from discriminating between 'rich' and 'poor' *as such* in the formulation and application of their laws."

Section 17-2d falls squarely within Justice Harlan's formulation. The statute uses the phrase "visible means of support" as the pertinent criterion, and the implementing regulations spell out the meaning of the phrase in strictly economic terms. Applications for AFDC of otherwise eligible persons who have resided in Connecticut for less than one year are granted only if the applicant, at the time of arriving in the State, had "specific employment" or sufficient "regular income or resources." This is discrimination between rich and poor "as such," and it therefore cannot stand under the fourteenth amendment.

IV.

Section 17-2d Violates the Equal Protection Clause Because Its Classification Is Unreasonable in Light of the Statutory Purpose.

It is established that legislative classifications, to survive scrutiny under the Equal Protection Clause, must be reasonably related to the purpose of the statute. As early as 1896, in *Gulf, Colorado & Santa Fe Ry.* v. *Ellis,* 165 U.S. 150, 155, the court expressed this requirement as follows:

> "[T]he attempted classification . . . must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never be made arbitrarily and without any such basis."

This standard has consistently been adhered to. As stated in *McLaughlin* v. *Florida,* 379 U.S. 184, 191 (1964), "the question [is] whether the classifications drawn in a statute are reasonable in light of its purpose . . . ." Or, as laid down in *Truax* v. *Raich, supra,* 239 U.S. at 42, "reasonable classification implies action consistent with the legitimate interests of the State . . . ." See also *Carrington* v. *Rash,* 380 U.S. 89, 93 (1965); *Rinaldi* v. *Yeager,* 384 U.S. 305, 308-309 (1966).

In the case at bar the "act in respect to which the classification is proposed," is Section 17-85 of Chapter 302 of the Connecticut General Statutes. It provides that assistance will be given under the Connecticut AFDC program to "any relative having a dependent child or dependent

children, who is unable to furnish suitable support therefor. . . ." Under both Sections 17-85 and 17-2d applicants must also be residents of Connecticut.[24] Accordingly, the statute establishes an AFDC welfare program which is designed to provide assistance to residents of the State who need such assistance.

It is evident that the one year durational residence requirement does not comport with the stated purpose of the AFDC program. It fails to provide the "suitable support" to families with dependent children that Section 17-85 mandates as the legislative objective. In fact, it is inconsistent with this purpose. Residents of Connecticut who have lived in the State for less than one year are no less needy by reason of that fact. As stated by the court in *Harrell* v. *Washington, supra* at p. 12:

> "The basic purposes of the legislation—public assistance to those in need, maintenance and strengthening of family life, achievement of self-support and self-care—are not more faithfully served by withholding aid until applicants have lived here for twelve months. Indeed, the denial of assistance for an entire year to otherwise qualified recipients may only erode values which the statute tries to promote."

The court in *Green* v. *Dept. of Public Welfare, supra,* 270 F. Supp. at 177, also recognized the obvious consequences of denying aid to indigent residents who have lived in the State for less than a year. In ruling that "discrimination based on length of residency . . . finds no constitutional justification in the purpose declared in the statute itself,"

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[24] See footnote 19, *supra.*

the court pointed out that it is not "an acceptable answer to say that until they are here one year such persons are not a part of the State's needy and distressed," and it concluded that such discrimination "necessarily results in pressure on the solidarity of the family unit"—which, after all, it is the purpose of programs for aid to families with dependent children to assure. See, e.g., Bell, AID TO DEPENDENT CHILDREN (1965).

The inconsistency between the legislative objective and the durational residence requirement also exists with respect to the Connecticut law. Here, too, bona fide residents of the State are denied needed assistance on a ground that cannot be squared with any of the humane purposes of the statute. The fact that Connecticut confines the residence requirement to newcomers who arrive without a job or financial resources merely adds another element of discrimination against the poorest of the poor accentuating the invalidity of the legislation.

There is no other valid purpose which can be advanced to support the one year provision. As discussed in Point I, *supra*, it is not a proper object for Connecticut to try to deter indigents from entering the State. Nor is there any basis upon which the residence requirement can be justified as a means of ascertaining the facts concerning eligibility for AFDC and to avoid payments tainted with fraud. Not only did the court below find that appellee came to Connecticut with a perfectly lawful purpose—"to live near her mother," 270 F. Supp. at 333,—but the Connecticut Welfare Commissioner "frankly testified that no residence requirement is needed for any of these purposes." 270 F. Supp. at 338.

Finally, the State cannot justify Section 17-2d by claiming that its sole objective is to preserve State funds. In the first place, this goal is not divisible from the general purpose to save funds *by deterring indigents from entering Connecticut.* Second, even assuming that it was, the statute would be invalid because there is no basis in the record for concluding that treasury funds will in fact be saved by drawing the line the way Connecticut has drawn it—between applicants with jobs or those resident for one year, on the one hand, and newcomers without jobs on the other.

As stated by the court below, "the classifications of one year's residence or a job are not reasonable in light of the purpose of §17-2d because . . . there is no showing that those applicants will be lesser burdens than applicants without jobs or one year's residence." 270 F. Supp. at 338.

The district court was on sound ground in requiring Connecticut to make a "showing" on this issue. The seriousness of the individual interest at stake alone justifies this conclusion. In addition, the financial and statistical data is in the possession of the State. Finally, the Commissioner of Welfare conceded at the district court hearing that the proportion of persons coming to Connecticut for the single purpose of obtaining AFDC is small, *Transcript*, pp. 42-3, and this testimony is bolstered by similar evidence introduced with respect to the Pennsylvania experience. See *Smith* v. *Reynolds*, 277 F. Supp. 65, 66 (E.D. Pa. 1967). In this context it would have been error for the lower court to place the burden of proof on the appellee. Compare *Skinner* v. *Oklahoma*, 316 U.S. 535, 541-42 (1942); *Tot* v. *United States*, 319 U.S. 463, 467 (1943).

Finally, even if the state were somehow able to make a showing of financial benefit, this would not be sufficient to satisfy the demands of the Equal Protection Clause. The protection the Constitution affords to the victims of arbitrary discrimination is surely greater than that. In *Smith* v. *Reynolds, supra,* it was also maintained that reasons of economy were sufficient to uphold Pennsylvania's one year residence requirement. The court rejected this argument as follows:

> "But the constitutional test of equal protection is not satisfied by considerations of minimal financial expediency alone . . . . There must be some otherwise legitimate purpose for excluding members of the class who are in fact deprived of the protection and privileges of existing laws." 277 F. Supp. at 68.

This Court, too, in an analogous context, has recognized the futility of justifying essentially unequal treatment by a less than compelling State interest. In *Carrington* v. *Rash, supra,* Texas attempted to sustain a permanent ban on voting by members of the armed forces because of the difficulty of determining which members intended to become permanent residents of the State. In rejecting Texas's defense, Mr. Justice Stewart said, "States may not casually deprive a class of individuals of the vote because of some remote administrative benefit to the State." 380 U.S. at 96. Just as the right to vote cannot be abridged because of a "remote administrative benefit," so too destitute families cannot be deprived of the necessities of life "by considerations of minimal financial expediency." See also *Oyama* v. *California, supra,* 332 U.S. at 646-647.

In sum, irrespective of the view one takes of the purpose of the legislation, Section 17-2d is invalid under the Four-

teenth Amendment because the classification it draws is unreasonable in light of the statutory purpose.

Conclusion

For the reasons stated, the judgment of the court below should be affirmed.

Respectfully submitted,

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APPENDIX A

Constitutional Provisions and Statutes Involved

U.S. Const., Amendment XIV, Section 1:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Connecticut General Statutes, Section 17-85 (1966):

"Any relative having a dependent child or dependent children, who is unable to furnish suitable support therefor in his own home, shall be eligible to apply for and receive the aid authorized by this part, for such dependent child or children and to meet such relative's own needs, if such applicant has not made an assignment or transfer or other disposition of property without reasonable consideration or for the purpose of qualifying for an award if such relative is to be supported wholly or in part under the provisions of this part; provided ineligibility because of such disposition shall continue only for that period of time from the date of disposition over which the fair value of such property, together with all other income and resources, would furnish support on a reasonable standard of health and decency; and provided no needy dependent child shall be deemed ineligible for assistance by reason of any such transfer or other disposition of property by a relative not legally liable for

the support of such child. Each such dependent child shall be supported in a home in this state, suitable for his upbringing, which such relative maintains as his own. Aid shall not be denied any such dependent child on the ground that such relative is not a citizen of this state or of the United States. In the case of a child who reaches his eighteenth birthday during a school year and while in attendance at school, such aid shall continue for such child, so long as he attends school, until the end of such school year."

Connecticut General Statutes, Section 17-2d (1966):

"When any person comes into this state without visible means of support for the immediate future and applies for aid to dependent children under Chapter 301 (sic.) or general assistance under Part I of Chapter 308 within one year from his arrival, such person shall be eligible only for temporary aid or care until arrangements are made for his return. . . ."